



# COUNTY OF LOS ANGELES

## CHIEF INFORMATION OFFICE

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February 28, 2003

To: Supervisor Yvonne Brathwaite Burke, Chair  
Supervisor Don Knabe, Chair Pro Tem  
Supervisor Gloria Molina  
Supervisor Zev Yaroslavsky  
Supervisor Michael D. Antonovich

From: Jon W. Fullinwider  
Chief Information Officer

Subject: **HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA)  
TASK FORCE – STATUS AS OF FEBRUARY 28, 2003**

### COUNTYWIDE HIPAA COMPLIANCE STATUS

**RED - HIGH RISK OF NON-COMPLIANCE**

During the Board meeting of June 19, 2001, the Board directed the Chief Administrative Officer and the Chief Information Officer to report quarterly on the County's efforts and progress in becoming compliant with the Health Insurance Portability and Accountability Act of 1996 (HIPAA). While we will continue to provide quarterly reports, a key date related to Privacy compliance is rapidly approaching. HIPAA Privacy Rules will become effective on April 14, 2003. In light of this key milestone and the large commitment required by the affected departments to ensure compliance, we will provide the Board with bi-weekly updates on the progress being made to comply with this requirement. A secondary part of the status report will focus on the County's continuing efforts to become compliant with the electronic exchange of information under the Transactions and Code Sets provisions of HIPAA. In this context, the County must begin testing by April 16, 2003, with the intent of being fully compliant by October 16, 2003.

As depicted in "RED" above, the overall status of the County's compliance efforts reflected in this status report remains characterized as High Risk for not achieving compliance by the established dates. However, there have been areas of improvement as well as new discoveries regarding the County's HIPAA position.

As mentioned in the previous report, the HIPAA Privacy Rule requires all employees, students and volunteers within the workforce of the Department of Health Services (DHS), the Department of Mental Health (DMH) and the Probation Kirby Center to receive formal training in the protection of health care information. A significant impact to DHS is that they recently became aware (information received from the USC Privacy Officer) that they will have the additional responsibility for training the USC medical students at LAC+USC. This effort will increase the DHS overall training level by an additional 900 personnel. Similar discussions between UCLA and Charles Drew medical schools are planned.

While progress is being made, it is clearly not at the level that will ensure County compliance by April 14, 2003. DHS continues to struggle with the tasks required to achieve HIPAA compliance for Privacy. They have yet to develop a plan and with only six weeks remaining, the number of personnel to be trained on a weekly-basis has increased significantly making it more difficult to achieve compliance. As of this report, DHS has submitted Privacy Training documentation for less than 3% of its workforce.

DMH, through its continuing instructor-led instruction, has made significant progress with 49% of their workforce having completed training. While they still have a fair amount of training to complete, they have submitted a training plan that provides sufficient detail to suggest, with a high degree of confidence, that they will be fully compliant by April 14, 2003.

While the Probation Kirby Center workforce training plan revolves around participating in the DMH training sessions, they have not, as of this report, conducted any staff training. Although they do not have a large number of staff to train, they must begin to make progress by the next reporting period.

DMH has shown significant progress towards finalizing privacy policies, procedures and forms. DHS has shown limited progress in this area. During this last reporting period, DHS has communicated that due to their operational structure, their affected facilities would like more latitude in deploying policies and developing procedures. While latitude in developing procedures unique to each facility may mitigate the coordination of having common processes across the facilities, the development of unique procedures only exacerbates the effort involved in ensuring that each facility appropriately adheres to HIPAA policies with compliant procedures. While it is not clear what the business value is in having different procedures in all the facilities for accommodating standard policies, it will require each facility to draft new, supplemental procedures or further amend existing procedures. The Chief Information Privacy Officer (CIPO) has consulted with County Counsel and outside counsel in regards to this approach. They have confirmed that the CIPO would be required to review and approve all HIPAA related privacy policies and procedures before they can be considered effective. DHS and its hospitals need to determine how they will proceed in completing this significant task. It is not the preference of the CIPO to be responsible for the associated HIPAA privacy policies and procedures within DHS and its facilities; however, federal law mandates the CIPO as accountable for privacy policy development. The CIPO is planning to meet with DHS and County Counsel to resolve issues as soon as possible.

DHS has stated that they plan on outsourcing the administrative functions of their Community Health Plan (CHP). Under this approach, the LA Care Health Plan will be responsible for ensuring that the exchange of electronic information is compliant with the testing and ultimate implementation deadline imposed by HIPAA Transactions and Code Sets (TCS) criteria. However, this contract continues to be delayed and the time for ensuring compliance (i.e., April 16<sup>th</sup> and October 16<sup>th</sup>) continues to slip away. As a back-up plan, CHP is working with the vendor for its existing Managed Health Care Information System to develop modifications to the system that will allow them to begin testing on or before April 16, 2003. However, a plan has not been developed to detail how either of these options will be successfully executed.

### **ACCOMPLISHMENTS**

1. DMH has significantly increased its training completion status from 0 to 1428.
2. DMH has increased its policies and procedures status from 3 to 18.
3. The Interdepartmental MOU Workgroup has convened and is commencing the data collection efforts for the affected departments.
4. The Hospitals and Clinics under DHS have begun TCS testing.

### **ISSUES REQUIRING MANAGEMENT ATTENTION**

1. HIPAA Training Continues to Fall Behind Schedule: To meet the HIPAA requirement for training the entire workforce of DHS, DMH, and the Probation Kirby Center by April 14, 2003, will require that approximately 4,425 employees per week complete the training. To achieve compliance, management must take a more aggressive position in ensuring staff is identified and provided opportunities to be trained within the remaining six weeks.

#### **Recommended Actions:**

DHS and DMH must identify their volunteer staff and the appropriate level of training based on the individual's job function. Additionally, DHS must develop detailed plans to ensure that employees requiring instructor-led training are specifically identified, work schedules are developed that allow time for both web-based trainees and employees requiring instructor-led classes to complete training, and lastly, that a sufficient number of trainers and training locations are identified to ensure that required training is accomplished each week.

2. Privacy Policies, Procedures and Forms Are Behind Schedule: There is a large number of HIPAA Privacy specific policies and procedures to be developed and reviewed prior to their adoption. With the exception of DMH, DHS has provided policies for review, but they are drafted using a newly presented, more global approach that raises concern. The CIPO has consulted with County Counsel and outside counsel in regards to this new approach. They have confirmed that the CIPO must review and approve all HIPAA related privacy policies and procedures before they can be considered effective. If DHS pursues this method, it would require each of their facilities to draft and submit a significant amount of documented procedures for review and approval. The CIPO is planning to meet with DHS and County Counsel in the first week of March 2003 to resolve issues related to this new approach. These policies and procedures must be adopted and distributed within the affected departments no later than April 14, 2003.

**Recommended Actions:**

Each HIPAA covered department must support the streamlined development and review process to ensure the timely completion and publication of the required policies and procedures. DHS and its hospitals need to determine how they will proceed in completing this significant task. The updated schedule expects completion of at least 90% of these documents by March 21, 2003. The CIPO and outside counsel will continue to work with DHS to resolve issues and assist them with the development and deployment of identified policies, procedures and forms.

3. Inter-departmental MOUs Are Behind Schedule: The countywide project plan scheduled this effort to begin February 10, 2003, and to be completed by March 31, 2003. The workgroup to address inter-departmental MOUs has convened a meeting and workgroup members are rapidly identifying the types of Protected Health Information (PHI) exchanged between departments for the purpose of determining how the information is being utilized.

**Recommended Actions:**

The five key departments requiring MOUs include the Chief Administrative Office, Treasurer-Tax Collector, Auditor-Controller, County Counsel, and the Internal Services Department. The departmental representatives are required to submit their findings by February 28, 2003. The CIPO has begun drafting the supporting Board Letter to gain approval for the MOU language that is being written by County Counsel. An ongoing management commitment by each of the departments is required to finalize this effort and have signed MOU's in place by March 31, 2003.

## **IMPACT OF NON-COMPLIANCE**

In the event the County fails to meet HIPAA compliance directives, there can be monetary and criminal penalties imposed. The maximum penalties include up to \$250,000 in fines or up to 10 years imprisonment. Additionally, the County may be held liable for breaches of privacy and resulting lawsuits. The related publicity would embarrass the County and damage its public image in regards to our management of healthcare information. After October 16, 2003, any department that cannot generate HIPAA compliant electronic transactions will either have to submit paper-based transactions or delay the submission of the transaction until they are in compliance. The County could revert back to paper-based Medi-Cal claim submission, however, the State's limited ability to process the huge volumes of claims would have a significant impact on DHS's and DMH's cash flow. This would further burden the County's already stressed healthcare organizations.

The attached color-coded chart identifies the metrics for monitoring DHS, DMH and the Dorothy Kirby Center's progress in achieving compliance with the HIPAA rules. A "RED" status indicates the project or task is significantly behind with a high potential of not meeting compliance dates. A "YELLOW" status indicates that the project or task is behind schedule, however, it has not yet reached the point of being classified as "RED" and there is a clear near term effort to ensure the project or task is completed within the specified timeframe. A "GREEN" status indicates that the project or task is on schedule with a high degree of confidence that it will be completed within the specified timeframe.

If you have questions or require additional information, please contact me at (213) 974-2008.

JWF:GD:ygd

### **Attachment**

c: Chief Administrative Officer  
Director, Department of Mental Health  
Director, Department of Health Services  
Chief Probation Officer  
County Counsel  
Internal Services Department  
Auditor-Controller  
Treasurer and Tax Collector

**HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY (HIPAA)**

Privacy Rules (Compliance Date April 14, 2003)				
	Department of Health Services	Department of Mental Health	Probation – Kirby Center	Overall County Status
Privacy Training	Total to be Trained: 25,500 Trained to Date: 644 Change Since Last Report: 545 Planned for next period: 8,303	Total to be Trained: 2,918 Trained to Date: 1428 Change Since Last Report: 1428 Planned for next period: 496	Total to be Trained: 154 Trained to Date: 0 Change Since Last Report: 0 Planned for next period: 51	Total to be Trained: 28,572 Trained to Date: 2072 Change Since Last Report: 1973 Planned next period: 8850
Comments	1. The statistics referenced above indicate each department’s documented status in completing required HIPAA Training. 2. The Chief Information Privacy Officer (CIPO) is coordinating the training efforts for the County between the various departmental Privacy Officers. Each department is required to manage and track their workforce's progress towards completing the assigned training. This includes ensuring that all staff and volunteers are assigned to take the proper training curriculum.			
	1. DHS's training plan remains overdue. 2. DHS was recently informed by the USC Privacy Officer that they will be required to manage the training of the approximately 900 medical students at LAC+USC Hospital.	1. DMH submitted their approved training plan on FEB 21. 2. DMH will assist Kirby in conducting the majority of its training.	1. Unless Kirby shows progress towards training completion by next report, they will be reported as Red.	
Publication of Privacy Policies, Procedures and Forms	No. of Documents Required: 45 No. of Documents Finalized: 5 Change Since Last Report: 2	No. of Documents Required: 43 No. of Documents Finalized: 18 Change Since Last Report: 15		No. of Documents Required: 98 No. of Documents Finalized: 23 Change Since Last Report: 17
Comments	1. The CIPO, in concert with the Departmental Privacy Officers, are developing County Privacy Policies and Procedures to comply with HIPAA Privacy rules. These policies and procedures must be adopted and distributed within the affected departments no later than April 14, 2003			
	1. DHS has recently communicated that due to their operational structure, their affected facilities would like more latitude in deploying policies and developing procedures. While latitude in developing procedures unique to each facility may mitigate the coordination of having common processes across the facilities, the development of unique procedures only exacerbates the effort involved in ensuring that each facility appropriately adheres to HIPAA policies with compliant procedures. This new approach increases the overall risk of non-compliance for DHS. DHS and its hospitals need to determine how they will proceed in completing this significant task. The CIPO is seeking a meeting with DHS and County Counsel to resolve ASAP.			

<b>Privacy Rules</b> <b>(Compliance Date April 14, 2003)</b>				
	Department of Health Services	Department of Mental Health	Probation – Kirby Center	Overall County Status
<b>Business Associate Amendments</b>	<b>No. of Amendments Required: 100*</b> <b>No. of Amendments Executed: 0</b> <b>Target Completion: March 31, 2003</b>  (*) This is a <u>contract</u> only count. The number of affected purchase orders will be reflected in the next report.	<b>No. of Amendments Required: 265*</b> <b>No. of Amendments Executed: 0</b> <b>Target Completion: March 31, 2003</b>  (*) This is a combined contract and purchase order count.	<b>No. of Amendments Required: NA*</b> <b>No. of Amendments Executed: NA</b> <b>Target Completion: March 31, 2003</b>  (*) All Business Associate Amendments are included in the DMH count.	<b>No. of Amendments Required: 365</b> <b>No. of Amendments Executed: 0</b> <b>Target Completion: March 31, 2003</b>
<b>Comments</b>	1. DHS and DMH were expected to show progress in submitting their Business Associate Agreements, but no updates have been received to date. 1. DHS needs to identify and report the number of Purchase Orders that require Business Associate language.			
<b>Interdepartmental MOUs</b>	<b>No. of MOUs Required: 5</b> <b>No. of MOUs Executed: 0</b> <b>Target Completion: March 31, 2003</b>	<b>No. of MOUs Required: 5</b> <b>No. of MOUs Executed: 0</b> <b>Target Completion: March 31, 2003</b>	<b>No. of MOUs Required: 5</b> <b>No. of MOUs Executed: 0</b> <b>Target Completion: March 31, 2003</b>	<b>No. of MOUs Required: 5</b> <b>No. of MOUs Executed: 0</b> <b>Target Completion: March 31, 2003</b>
<b>Comments</b>	The CIPO met with the three HIPAA covered components and the five County Departments (CAO, Counsel, Auditor, Treasurer and ISD) on FEB 19 to commence the MOU development process. This involves identifying what PHI is being exchanged, who is receiving it and how it is being safeguarded. ISD and Treasurer have submitted their PHI Data Collection Sheets and all other departments are required to submit to the CIPO no later than FEB 28. After all the data is collected and reviewed, a more detailed status will be provided in the next report to the Board.			

Transactions and Code Sets (TCS) Rules (Test Date: April 16, 2003)						
	Department of Health Services			Department of Mental Health	Probation – Kirby Center	Overall County Status
System Modifications/ Version Upgrades	Hospitals/Clinics	Upgrade		System Development & Implementation	(Dependent on DMH Integrated System)	Overall County compliance is dependent on a variety of compliance strategies.
	Public Health	Outsourcing				
	OMC/CHP	Modification/Outsourcing				
Comments	DHS' hospitals and clinics are using a commercial Hospital Information System (HIS) by QuadraMed, Inc. Their M1 version upgrade includes all the required updates to capture required data.			DMH has a contractor developing an Integrated System, which will allow the department to achieve HIPAA TCS compliance. As validated in a meeting on February 27, 2003, the contractor and team confirmed that the project plan is on schedule to meet the April 16, 2003 testing deadline.	The Kirby Center's compliance is dependent on the DMH project. DMH processes all Kirby transactions.	Those organizations that are modifying systems or contracting out the function to achieve TCS compliance must maintain very tight timelines to achieve this goal.
	DHS' Public Health must modify applications or process covered transactions manually. Their progress in addressing these two options is undergoing revisions and no final plan has been presented.					
	The Office of Managed Care (OMC) has stated that they plan to outsource the administrative functions of their Community Health Plan (CHP). Under this plan, the LA Care Health Plan will be responsible for ensuring that the exchange of electronic information is compliant with the testing and ultimate implementation deadline imposed by HIPAA Transactions and Code Sets (TCS) criteria. As a back-up plan, CHP is working with the vendor for its existing Managed Health Care Information System to develop modifications to the system that will allow them to begin testing. However, a final plan has not ben provided to detail how either of these options will be successfully executed.					
Transaction Testing Begun?	Hospitals/Clinics	Public Health	OMC/CHP	NO		All systems have not started testing.
	YES	NO	NO			
Comments	1. HIPAA TCS Rules require each provider to begin testing of their covered transactions by April 16, 2003. The State of California is their largest “trading partner” (payer).					